

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
V.) NO. 08-148-LTS
TAREK MEHANNA)

DEFENDANT'S MOTION TO AMEND CONDITIONS OF BAIL

The defendant respectfully requests that this Court amend the conditions of his bail such that his father's TIAA-CREF retirement account not be required to be posted as bail. As grounds therefore, defendant states the following:

1. On December 19, 2008, an order was issued releasing the defendant on bail.
 2. Among other conditions, the defendant's parents were required to post their Sudbury home, \$100,000, and defendant's father's TIAA-CREF retirement account.
 3. The Sudbury home and the \$100,000 were posted without a problem.
 4. Counsel for the defendant attempted to have the TIAA-CREF account posted, but was unable to do so.
 5. Federal law (ERISA) prohibits the posting of this retirement account for bail.

6. Since learning of this prohibition, counsel for the defendant has attempted to arrange for the availability of this account for bail.
7. Counsel for the defendant has explored the possibility of the defendant's father terminating his account should the defendant violate bail.
8. The defendant's father would be unable to do so. The defendant's father is a professor at the Massachusetts College of Pharmacy and Health Sciences, and his retirement account is funded entirely by the College. For this reason, while he remains in the employment of the College, the defendant's father has absolutely no access to this retirement account.
9. Once the defendant's father leaves the employment of the College, he will be eligible for a lump sum payment only within 120 days of termination of employment. After that, he would be eligible only for annuity payments. A letter sent to counsel from TIAA-CREF attests to this.
10. For these reasons, there is no way the retirement account can be posted as bail.

11. The current order setting forth conditions of bail has effectively led the defendant's parents to post all of their assets in support of the defendant's release.
12. According to Pre-Trial Services officer Toland Gladden, the defendant to date has complied with all terms of bail.
13. The defendant urges the Court to delete the condition that his father's retirement account be posted for bail, as it is impossible to do so, and that the Court have confidence that its intent to ensure the defendant's compliance with the terms of release will nonetheless be satisfied.

Tarek Mehanna
By His Attorneys

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Dated: February 11, 2009

Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on or before the above date.

/s/ J. W. Carney, Jr.
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